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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
DEMICCO, MATTHEW R	

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/765,926	FRISTOE ET AL.	
	Examiner	Art Unit	
	Matthew R Demicco	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 January 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 January 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Figure 1, 122, 124, 126, 140; Figure 2, 260; Figure 5A, 515; Figure 7, 760. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because Figure 8A contains duplicate reference numbers for 815, one representing a Play Button and the other a Logo. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The Examiner requests that Applicant update relevant copending application information in the Cross Reference to Related Inventions, Summary, and Detailed Description sections.

Claim Objections

4. Claim 13 is objected to because of the following informalities: on Page 44, Line 5, the Examiner believes that "is valid" should be corrected to read --is not valid--. Appropriate correction is required. For purposes of examination, the claim will be interpreted as such.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-5, 7-8, 10 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,188,398 to Collins-Rector et al.

Regarding Claim 1, Collins-Rector discloses a method comprising the steps of enabling a user to receive interactive video from a web page (Col. 1, Lines 65-67) having a basic movie player (Col. 2, Lines 63-67 and Figure 2) having track locations (33, 35, 37). The web page uses HTML (Col. 4, Line 5), which reads on the claimed predefined template. Further disclosed is applying a set of selected tracks to the track locations of the template (Col. 4, Lines 5-14) and saving the player in a place accessible when the player is needed (Col. 4, Lines 14-15). What is not disclosed, however, is that the movie player is designated to operate at a predetermined connection speed and the content matching the player's connection speed is played. Official Notice is hereby taken that it was well known in the art at the time the invention was made to allow a user to select their connection speed when viewing a video on a web page. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector with the movie player designated to operate and play at a predetermined connection speed of the well known prior art in order to allow a

user to view a movie at a bit-rate commensurate with their bandwidth in order to maximize the video quality without unnecessary skipping/buffer under-runs.

Regarding Claim 2, Collins-Rector discloses a method as stated above in Claim 1 wherein the track location of the template is a promotion track location (Col. 2, Lines 33-44 and Figure 2, 33 and 35). Promotional tracks are selected in accordance with the video that is playing (Col. 2, Lines 46-50). This reads on the claimed selected track being a promotional track. The promotional tracks are placed in the track locations (Col. 5, Lines 6-15). The promotional track is linked to pages of additional information associated with the promotional track (Col. 5, Lines 1-2), which is received by the user.

Regarding Claim 3, Collins-Rector discloses a method as stated above in Claim 2, further comprising synchronizing ads with video as it is playing and updating content (Col. 2, Lines 39-54). This reads on the claimed receiving a set of parameters indicating when the promotion track is to be active. The ads are displayed in synch with video content being displayed as stated above. This reads on the claimed building the players consistent with the parameters. Ads are updated to they change as more information is available about the user or new ads as they are produced, as stated above. This reads on the claimed rebuilding the player to include promotional tracks when they become active. Further, old ads are replaced by new ads, and the old ads appear as a thumbnail list in a different window (Col. 4, Lines 63-67). This reads on the claimed rebuilding the player to remove promotional tracks when they have become inactive.

Regarding Claim 4, Collins-Rector discloses a method as stated above in Claim 3 further comprising the step of performing the steps of rebuilding if the promotional track

has become active or inactive as stated above in Claim 3. Collins-Rector further discloses displaying an ad when a video player is requested to play (Col. 4, Lines 52-55). What is not disclosed, however, is checking the validity of a promotional track used in a player when the player is requested to play. Official Notice is hereby taken that it was well known in art at the time the invention was made to check the validity of a piece of data before displaying it. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector with the data validity checking of the well-known prior art in order to alert the user if an image file is corrupt or unavailable.

Regarding Claim 5, Collins-Rector discloses a method as stated above in Claim 3 further comprising the step of updating ads in synchronization with content (Col. 2, Lines 39-54). This reads on the claimed repeating the rebuilding at a predetermined time interval.

Regarding Claim 7, Collins-Rector discloses a method as stated above in Claim 1 further comprising the step of placing web pages on a web server for a user to access (Col. 4, Lines 14-15). It is inherent that in order to access the pages, a user must send a request to the web server from their browsing software. This reads on the claimed receiving a request for rich media content from a content viewer. A web page framework (See Figure 2) is subsequently downloaded. This reads on the claimed downloading a master movie to the content viewer corresponding to the rich media content requested. The web page contains a frame referencing a video clip to be displayed (Col. 4, Lines 5-10). In order to display this video clip referenced from the web page, a request must be

made to the server. A connection speed of the content viewer is determined as part of the request as stated above in Claim 1. This reads on the claimed receiving a request from the master movie (URL of the embedded video in the frame) indicating rich media content matching the rich media request and a connection speed of the content viewer.

Regarding Claim 8, Collins-Rector discloses a method as stated above in Claim 7. As stated above in Claim 1, a user is able to select a connection speed in order to determine and subsequently receive this most appropriate master movie content. This selection data reads on the claimed profile on a host machine used by the content viewer. The URL pointing to the embedded movie in the frame must reference a video designated by the user's bandwidth selection. This reads on the claimed connection speed being determined by the master movie (web page framework) by reading a profile (user selection data) on the host machine used by the content viewer.

Regarding Claim 10, Collins-Rector discloses a method as stated above in Claim 1, wherein at least one of the track locations is a buy button track location (Col. 2, Lines 22-29). Displaying the button reads on the claimed applying a buy button track to the buy button track location. The button is linked to another page to display more information, initiate a purchase or display a form to complete (Col. 5, Lines 2-5). What is not disclosed is linking a back end application configured to add an item to the viewer's shopping cart to the buy button. Official Notice is hereby taken it was well known in the art at the time the invention was made to provide a link to a shopping cart application. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector with the shopping cart of

the well-known prior art in order to allow a user to continue to shop for other items and purchase them all at once using a well-known and friendly interface.

Regarding Claim 20, Collins-Rector discloses a method as stated above in Claim 1 wherein a web page is transmitted to a user's web browser as stated above. This reads on the claimed electronic signal being transmitted, propagating through a medium and received. It is inherent that such digital data be decoded from bit patterns in order to be properly rendered. The data comprises a rich media player (See Figure 2).

7. Claims 6, 11-18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins-Rector et al. in view of U.S. Patent No. 6,715,126 to Chang et al.

Regarding Claim 6, Collins-Rector discloses a method as stated above in Claim 1, wherein the step of applying comprises applying a set of user/e-tailer selected tracks to the track locations of the template. These user/e-tailer tracks are advertisements that correspond to the programming as stated above. What is not disclosed, however, is applying a set of supplier-selected tracks to the track locations of the templates. Chang discloses a method for delivering media content over the web with synchronized images or events including applying a set of supplier-selected tracks to the track locations of the templates (See Figure 4). In this case, the supplier-selected tracks are logos such as the "Powered by HotAudio" logo. Chang is evidence that one of ordinary skill in the art at the time the invention was made would recognize the benefit of applying a supplier-selected track to the track location of a web page. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the

method of Collins-Rector with the supplier logos of Chang in order to promote a supplier's product for greater revenue opportunities.

Regarding Claim 11, Collins-Rector discloses a device for serving rich media content to a content viewer as stated above comprising an application server having a first user interface program (Col. 5, Lines 8-12) configured to retrieve assets and tracks for accessory links and control buttons from a supplier (See Figure 2). Further disclosed is a web browser (Col. 2, Lines 64-65), which reads on the player application configured to build a player device using the supplier supplied tracks (See Figure 2). A web server is also disclosed (Col. 4, Line 15) for serving data, as is well known in the art, to the web browser. This reads on the claimed web server for serving a player (See Figure 2) built by the player application (web browser). Also disclosed is the use of a streaming server (Col. 3, Lines 25-27) such as QuickTime, Netshow, or Real to stream content requested by a content viewer as stated above to be viewed by a player built by the player application. What is not disclosed, however, is retrieving assets from a supplier. Chang discloses a method for delivering media content over the web with synchronized images or events including applying a set of supplier-selected tracks to the track locations of the templates (See Figure 4). In this case, the supplier-selected tracks are logos such as the "Powered by HotAudio" logo. Chang is evidence that one of ordinary skill in the art at the time the invention was made would recognize the benefit of applying a supplier-selected track to the track location of a web page. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of

Collins-Rector with the supplier logos of Chang in order to promote a supplier's product for greater revenue opportunities.

Regarding Claim 12, Collins-Rector in view of Chang disclose a device as stated above in Claim 11. Collins-Rector further discloses a program configured to retrieve at the control buttons and accessory links as stated above in Claim 12. The data represents advertisements from a user/e-tailer as stated above. This reads on the claimed second user interface program configured to retrieve control buttons and accessory links from a user/etailer and configured to build the player using the retrieved tracks (See figure 2).

Regarding Claim 13, as best understood by the Examiner, Collins-Rector in view of Chang disclose a device as stated above in Claim 11. Collins-Rector further discloses supplier tracks including a promotional track that is time synchronized to content being displayed (Col. 4, Lines 5-10). This reads on the claimed at least one valid time frames for the promotional tracks. Further disclosed is adding an advertisement in response to content being displayed in the video (Col. 2, Lines 52-54) and removing the advertisement from the main window (Col. 4, Lines 63-67). This reads on the claimed building the player with the promotional track if the promotion is valid at the time the player is built and building the player without the promotional track if the promotion is not valid at the time the player is built.

Regarding Claim 14, Collins-Rector in view of Chang disclose a device as stated above in Claim 13. As stated above, the player is operable to update advertisements while the video is playing in order to synchronize ads with content (Col. 4, Lines 5-10). This reads on the claimed application server further comprising a check program that

periodically checks the validity of the promotional tracks (ads) in the players (web page, see Figure 2) built by the player application based on the valid time frames (Col. 2, Lines 44-50) corresponding to the promotional tracks being checked and rebuilds (Col. 2, Lines 39-54) any players having invalid (old) promotional tracks so that the rebuilt players promotional tracks are valid (synchronized with current content).

Regarding Claim 15, Collins-Rector in view of Chang disclose a device as stated above in Claim 12. Collins-Rector further discloses clicking on the ad to initiate a purchase of a product. This reads on the claimed tracks retrieved from the user/e-tailer include a buy now button. As stated above, the advertisements relate to content being viewed by the player. What is not disclosed is a back end application configured to add an item to the viewer's shopping cart on a user/e-tailer's web site associated with a content viewer running a player built by the application builder. Official Notice is hereby taken it was well known in the art at the time the invention was made to provide a link to a shopping cart application at a user/etailer's web site. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector in view of Chang with the shopping cart of the well-known prior art in order to allow a user to continue to shop for other items and purchase them all at once using a well-known and friendly interface.

Regarding Claims 16-17, see Claims 1-2 and 6 above.

Regarding Claim 18, see Claims 1-2, 6 and 10 above.

Regarding Claim 21, see Claim 20 above.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins-Rector et al. in view of U.S. Patent No. 6,256,669 to Hurwitz.

Regarding Claim 9, Collins-Rector discloses a method as stated above in Claim 7. What is not disclosed, however, is determining the connection speed by the master movie by performing the steps of downloading a predetermined file from a server and calculating the connection speed using the file size and time required to download the file. Hurwitz discloses a method for characterizing the bandwidth available to the user of a web browser by downloading media data and calculating the elapsed time to determined the number of bytes per second received (Col. 4, Lines 42-57). Hurwitz is evidence that ordinary workers in the art would recognize the benefits of downloading a predetermined file from a server to calculate available bandwidth. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector with the bandwidth measurement of Hurwitz in order to accurately determine the correct bit-rate of a media asset without relying on user intervention to make the determination.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claim 19 is rejected under 35 U.S.C. 102(e) as being anticipated by Chang et al.

Regarding Claim 19, Chang discloses a rich media player customized for each of a supplier and e-tailer (See Figure 3), wherein data is delivered (Cols. 4-5, Lines 66-3) over a communication link (Col. 4, Lines 61-66). This reads on the claimed electronic signal being transmitted and received. It is inherent that such video and audio data (Col. 5, Line 30) be decoded from bit patterns in order to be properly rendered to comprise a rich media player (See Figure 4) customized for each of a supplier and e-tailer.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. U.S. Patent No. 6,148,311 to Wishnie et al. discloses a method of building and rebuilding a website's HTML and related files when changes in pages are made.

b. U.S. Patent No. 6,248,946 to Dwek discloses a multimedia delivery system with targeted advertisements as part of the user's interface.

c. U.S. Patent No. 6,327,609 to Ludewig et al. discloses a java applet transmitted to a client for embedded video and audio in conjunction with an advertising server for including related content.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155. The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mrd
8/4/04

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PRIMARY EXAMINER